

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STEPHANIE LYNN FORD,

Plaintiff,

v.

CHRISTIANA CARE HEALTH SYSTEMS,

Defendant.

:
:
:
:
:
:
:
:
:
:

C.A. No. 07-529-JJF

**DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION TO CONSOLIDATE
THIS CIVIL ACTION WITH CIVIL ACTION NOS. 06-301 AND 06-458**

For the reasons set forth below, and pursuant to Federal Rule of Civil Procedure 42(a), Defendant Christiana Care Health Systems ("Defendant") respectfully requests that this Court consolidate the above-captioned Civil Action with Civil Action Nos. 06-301 and 06-458 as related matters and assign this Civil Action No. 07-529 to Judge Mary Pat Thyng, to whom Civil Action Nos. 06-301 and 06-458 are assigned.

1. On or about May 8, 2006, Plaintiff Stephanie Lynn Ford ("Plaintiff") filed a Complaint against Defendant in the United States District Court for the District of Delaware ("Complaint I") which alleged that Christiana Care "wrongfully terminated her," that Ms. Clark "wrongfully refused her employment," and that Mr. Burton "wrongly refused to place [her] in a position," allegedly in violation of the Family and Medical Leave Act of 1993, the Americans with Disabilities Act, the Employee Retirement Income Security Act ("ERISA"), and "Title 18 Section 2301-2318." Complaint I, which was docketed as Civil Action No. 06-301, was assigned to The Hon. Kent Jordan.

2. On or about May 8, 2006, Plaintiff also filed a Complaint against Defendants in the Court of Common Pleas for the State of Delaware, New Castle County

(“Complaint II”). Complaint II was identical to Complaint I, except for the claimed amount of damages.

3. After being served with Complaint II on July 14, 2006, Defendants timely removed that case to this Court pursuant to 28 U.S.C. §§1441 and 1446 on July 28, 2006. The removed Complaint II was docketed in this Court as Civil Action No. 06-458.

4. In the interests of justice and judicial economy, Civil Action No. 06-458 was consolidated with Civil Action No. 06-301, by Order dated October 3, 2006, and both cases were assigned to Judge Jordan.

5. Thereafter, on March 21, 2007, pursuant to the parties’ stipulation, Civil Action Nos. 06-301 and 06-458 were reassigned to Judge Mary Pat Thyne.

6. On September 4, 2007, Plaintiff filed the instant Civil Action No. 07-529 against Defendant in the United States District Court for the District of Delaware (“Complaint III”). In this Civil Action, Plaintiff purports to allege “race discrimination,” “employment discrimination,” and refusal to rehire after “returning from FMLA leave,” all of which she raised in her first two Complaints.

7. On February 13, 2007, Defendant moved for summary judgment in consolidated Civil Action Nos. 06-301 and 06-458 with respect to all of Plaintiff’s claims. That motion is still pending.

8. On October 16, 2007, Defendant moved to dismiss the Complaint in this matter on the grounds that it is duplicative of the claims that Plaintiff has filed in her first two Civil Actions and for the reasons set forth in Defendant’s motion for summary judgment in the consolidated civil actions. That motion is also pending.

9. The above-captioned Civil Action was recently reassigned from the vacant judgeship to The Honorable Joseph J. Farnan, Jr.

10. Rule 42(a) of the Federal Rules of Civil Procedure gives the district court broad discretion to consolidate actions involving a common question of law or fact when such consolidation will promote convenience and economy in judicial administration. See Fed. R. Civ. P. 42(a); Honeywell Int'l Inc. v. AudioVox Comm. Corp., et al., Nos. 04-1337, 04-1338, 04-1538, 2005 WL 2465898, at *4 (D. Del. May 18, 2005); D'Alessandro v. United States of Am., Nos. 04-137, 04-616, 2005 WL 984352, at *1 (D. Del. Apr. 27, 2005).

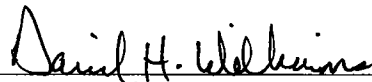
11. Consolidating this Civil Action with Civil Action Nos. 06-301 and 06-458 would foster judicial economy as all three of these cases are indisputably related. They involve the same parties and the same factual and legal allegations. This Court has already consolidated Civil Action Nos. 06-301 and 06-458 in light of the identity of factual and legal issues between the two cases and in the interests of judicial economy. The same factors compel consolidation of Plaintiff's latest Complaint with those two cases. Consolidation of this action with the other two actions will avoid unnecessary duplication of effort and will not prejudice Plaintiff.

12. Judge Thyng is already generally familiar with these cases as a result of her conducting of conferences with the parties with regard to scheduling and discovery matters. In addition, Defendant's Motion for Summary Judgment, which Defendant has incorporated into its Motion to Dismiss this case, is pending before Judge Thyng, and The Honorable Joseph J. Farnan, Jr. was only recently assigned this Civil Action. Thus, Defendant believes that the interests of judicial economy would best be served by

consolidating this Civil Action with Civil Action Nos. 06-301 and 06-458 and assigning this case to the Hon. Mary Pat Thyng.

WHEREFORE, for all the foregoing reasons, Defendant respectfully requests that Civil Action No. 07-529 be consolidated with Civil Action Nos. 06-301 and 06-458 and assigned to the Hon. Mary Pat Thyng.

Respectfully submitted,



David H. Williams (#616)
dwilliams@morrisjames.com
James H. McMackin, III (#4284)
jmcmackin@morrisjames.com
MORRIS JAMES LLP
500 Delaware Ave., Suite 1500
P.O. Box 2306
Wilmington, DE 19899-2306
(302) 888-6900/5849

Of Counsel:
Michael J. Ossip
Sean W. Sloan
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
215.963.5761/5084

Dated: February 8, 2008

Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STEPHANIE LYNN FORD,

Plaintiff,

v.

CHRISTIANA CARE HEALTH SYSTEMS,

Defendant.

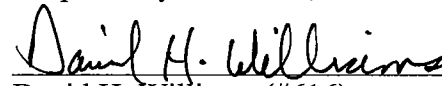
:
:
C.A. No. 07-529-JJF
:
:
:
:
:
:
:
:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on February 8, 2008, I electronically filed the attached
**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO
CONSOLIDATE CIVIL ACTION NO. 07-529 WITH CIVIL ACTIONS NO. 06-301
AND 06-458** with the Clerk of Court using CM/ECF, and that I have mailed by United
States Postal Service the document to the following non-registered participant:

Stephanie Lynne Ford
19 Albany Avenue
New Castle, DE 19720

Respectfully submitted,



David H. Williams (#616)
dwilliams@morrisjames.com
James H. McMackin, III (#4284)
jmcmackin@morrisjames.com
MORRIS JAMES LLP
500 Delaware Ave., Suite 1500
P.O. Box 2306
Wilmington, DE 19899-2306
(302) 888-69005849

Attorneys for Defendant